

III. REMARKS

Claims 1-34 are pending in this application. By this response, 1, 11, and 25 have been amended to clarify the subject matter of the invention. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed in this paper. Furthermore, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

Claims 1-21, 23-28, and 30-34 are rejected under 35 U.S.C. § 103(c) as being unpatentable over by Brown et al. (US Patent Publication No. 2002/0065766 A1, hereinafter, “Brown”) in view of Gutterman et al., 5,297,031 (“Gutterman”). Claims 14, 16-21 and 23-24 are rejected under 35 U.S.C. § 103(c) as being unpatentable over by Brown in view of Gutterman in further view of Madoff (US 2002/0019795). Claims 22-29 were rejected under 35 U.S.C. § 103(c) as being unpatentable over by Brown in view of Gutterman in further view of Madoff and in further view of Sheynblat (6,839,021).

With regard to claim 1 (and similarly claims 11, 15, 25 and 34), Applicants recite a system for implementing an electronic marketplace via a network, including “a market maker that receives orders for a series of call auctions from a plurality of nodes in the network, wherein each of the orders *received by the market maker* includes a time stamp from one of a plurality of agents residing within the network indicating a time that is subsequent to the order being placed by a participant and precedes the order being received by the market maker” (emphasis added).

In other words, Applicants’ system includes *agents* that (1) receive orders from participants, (2) time stamp the orders after they are received; and (3) forward them to the market

maker *with the timestamp for qualification purposes*. The Office Action states that Brown does not teach each of the orders includes a time stamp from one of a plurality of agents residing within the network indicating a time that is subsequent to the order being placed by a participant and precedes the order being received by the market maker. The Office however alleges that Gutterman teaches each of the orders includes a time stamp from one of a plurality of agents that is subsequent to the order being placed by a participant and precedes the order being received by the market maker.

Applicant traverses the obviousness rejection for the following reasons. While Gutterman does teach agents (i.e., brokers) that receive and timestamp orders, Gutterman fails to teach or suggest submitting timestamp orders to the market. Instead, Gutterman provides a system for managing orders received by a broker, which are ultimately communicated to a physical market in a pit and are “filled according to bids and offers ... **by open outcry**.” (Column 1, lines 5-40). In other words, the electronic time stamped orders taught by Gutterman go no further than the broker workstation described throughout Gutterman. The actual fulfillment of orders at the market is done in a pit by a floor trader using traditional “voice and hand signals to announce his bid or offer price.” (Column 2, lines 45-60).

The time stamping of orders at the broker workstation allows the broker to better manage the orders that need to be filled or offered. However, the timestamp itself never is transmitted to the market, as claimed by Applicants. For instance, claim 34 recites “receiving an order, wherein the order includes a time stamp received from a network agent that precedes a time the order is received and is subsequent to the order being placed by a participant.” Nowhere does either reference teach or suggest receiving an order at an electronic market place having a timestamp as claimed.

Applicants further submit that there would be no motivation to combine the references as suggested. As noted, Gutterman provides a tool for brokers engaging in a physical market where bids and offers are announced verbally in person in a pit. The use of timestamps allows the broker to place orders in a work queue that provides a FIFO buffer. (See, e.g., column 8). The timestamps cannot possibly be transmitted to the market to determine if an order qualifies for a given trading interval, since orders are filled face to face in a pit. The present invention claims an electronic marketplace that, e.g., includes “a time analysis system that examines each order submitted during a current trading interval to determine if the submitted order qualifies for the call auction at the end of the current trading interval based on the time stamp associated with the submitted order.” One skilled in the art would not be motivated to use the teachings of Gutterman, which are directed at a tool for brokers engaging in a face-to-face market, with an electronic marketplace seeking to properly identify which orders qualify for a call auction.

The use of timestamps in Gutterman is for a completely different purpose (i.e., order management for the broker *versus* order qualification by the market) in a completely different marketplace environment (physical versus electronic). Accordingly, Applicants submit that not only does the combination not teach the claimed invention, but that one skilled in the art would not look to Gutterman as motivation for altering Brown as suggested. For these reasons, Applicants submit that each of the independent claims is allowable over the cited combination.

With respect to dependent claims, Applicants respectfully submit that these claims are allowable for reasons stated above, as well as for their own additional claimed subject matter.

IV. CONCLUSION

In light of the above remarks, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

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Michael F. Hoffman

Reg. No.: 40,019

Hoffman Warnick LLC
75 State Street, 14th Floor
Albany, New York 12207
Phone: (518) 449-0044
Fax: (518) 449-0047